

1                   Monday, 24 June, 1946  
2                   - - -  
3                   INTERNATIONAL MILITARY TRIBUNAL  
4                   FOR THE FAR EAST  
5                   Court House of the Tribunal  
6                   War Ministry Building  
7                   Tokyo, Japan

8                   The Tribunal met, pursuant to adjournment,  
9                   at 0930.  
10                  - - -

11                  Appearances:

12                  For the Tribunal, same as before.  
13                  For the Prosecution Section, same as before.  
14                  For the Defense Section, same as before.  
15  
16                  - - -  
17                  (English to Japanese and Japanese  
18                  to English interpretation was made by MORI,  
19                  Tomio and SHIMANOUCHI, Toshiro, Hidekazu  
20                  Hayashi acting as Monitor.)  
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1 MARSHAL OF THE COURT: The International Military Tribunal for the Far East is in session, and is  
2 ready to hear any matter brought before it.

3  
4 THE PRESIDENT: All the accused are present  
5 except OKAWA and MATSUOKA, whose counsel are present.

6 The corrections of the record sought by coun-  
7 sel for TOGO will be made subject to any objections.  
8 The items have been checked, and if there are no ob-  
9 jections the corrections will be made.

10 Does any counsel desire to mention any  
11 matter?

12 Dr. KIYOSE.

13 DR. KIYOSE: Last Friday, when the prosecu-  
14 tion presented the picture, some errors in the Eng-  
15 lish commentary were pointed out. As I recall, this  
16 matter is supposed to have been corrected. May I  
17 confirm that these corrections have been made? If  
18 these corrections, in the English text, are made, the  
19 defense would like to see it; if not, it is the de-  
20 fense counsel's belief that the projection of the film  
21 should be postponed pending the making of the correc-  
22 tions.

23 THE PRESIDENT: Mr. Donihi.

24 MR. DONIHI: Mr. President, the corrections  
25 have been made in the English text. Unfortunately,

NAKAI

REDIRECT

1 the projection machine was broken at the showing on  
2 last Friday, for the defense. I am informed this  
3 morning that it may be some days before the necessary  
4 parts are here to make the repairs so that the pic-  
5 ture may be shown.

6 THE PRESIDENT: Are you going to proceed  
7 with the evidence?

8 - - -

9 K I M B E I N A K A I , called as a witness on be-  
10 half of the prosecution, resumed the stand and  
11 testified as follows:

12 REDIRECT EXAMINATION

13 BY MR. DONIHI:

14 Q Mr. NAKAI, have you viewed the picture,  
15 "Critical Period of Japan"?

16 A No, this picture was produced two years  
17 before I entered the company.

18 Q The question was, Have you seen or viewed  
19 the picture, "Critical Period of Japan"?

20 A I have seen this picture scores of times  
21 as a member of the group which took the picture  
22 around for projection in various parts of the country.  
23 I had occasion to see the picture on many occasions.

24 Q I will hand you herewith a still photograph  
25 and ask you if you can identify it?

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REDIRECT

1 A I confirm them.

2 Q What are these pictures that you have just  
3 viewed?

4 A These pictures are still shots of sections  
5 shown in the cinema presses in Japan depicting United  
6 States battleships, to portray Japan's crisis in the  
7 Pacific.

8 Q Do these shots appear in the picture,  
9 "Critical Period of Japan"?

10 A They do.

11 MR. DONIHI: There will be no further exami-  
12 nation on direct, may it please the Court.

13 THE PRESIDENT: Dr. KIYOSÉ.

14 RECROSS EXAMINATION

15 BY DR. KIYOSÉ:

16 Q In the affidavit you state that following  
17 the China Incident, films of a propaganda nature were  
18 prevalent to the extent that it was virtually impossi-  
19 ble for the movie houses to obtain Japanese produc-  
20 tions that were not of an ultra-nationalistic or  
21 military nature. However, was it not possible, at  
22 the time, to import American pictures, including  
23 American romantic pictures?

24 A That is so.

25 Q According to the advertisements in the

NAKAI

RECROSS

1           newspapers at that time, there appears to be very  
2           many pictures -- American-made pictures -- love pic-  
3           tures and others -- which have been advertised in the  
4           newspapers; is that not so?

5           A    Of course.

6           Q    In that sense then, your affidavit is not  
7           necessarily accurate?

8           A    That is so, but I have made that statement  
9           on the understanding that there were in these pic-  
10          tures love scenes and so on. However, the basis of  
11          these pictures were necessarily militaristic in  
12          nature. For example, toward the end the leading  
13          character would have to go to war, or he would die.

14          Q    Among the films imported from the United  
15          States, I hardly think that pictures of a militaristic  
16          or ultra-nationalistic nature would be the basis of  
17          such pictures?

18          A    That is so, as far as foreign pictures are  
19          concerned.

20          Q    To that extent, then, your statement is not  
21          accurate.

22          Just one more question: In the last para-  
23          graph of your affidavit you state: 'After the estab-  
24          lishment of the Board of Information in December,  
25          1940, American made films were banned.' - -

NAKAI

RE CROSS

1           Then, as you state, these pictures were not  
2 banned, were they?

3           A They were not banned, but they were re-  
4 stricted. I was told that I could interpret the word  
5 "banned" with the same significance as the term  
6 "restricted."

7           Q Then I shall take it that it was not prohi-  
8 bition but restriction.

9           MR. LOGAN: If the Tribunal please, the  
10 prosecution has showed certain pictures to this wit-  
11 ness, and there is no mark of identification on the  
12 pictures. May I suggest that the prosecution have  
13 these pictures marked for identification, so that  
14 we will know which pictures were shown to the witness.

15           THE PRESIDENT: Are you going to attend to  
16 the films, Mr. Donihi?

17           MR. DONIHI: It is our intention to ask that  
18 these shots be marked for identification. However,  
19 I did want defense counsel to have the opportunity  
20 of looking at them before I offered them.

21           At this time, I should like to offer the  
22 pictures shown to the witness, to be marked for  
23 identification.

24           THE PRESIDENT: Are they photographs? They  
25 look like photographs from here.

NAKAI

RE CROSS

1                   MR. DONIHI: They are photographs, may it  
2 please the Tribunal, which we will show to be excerpts  
3 from the picture, "Critical Period of Japan," and I  
4 can assure the Court that they will be connected up,  
5 through the testimony of later witnesses, as an inte-  
6 gral part of the prosecution's case.

7                   MR. MATTICE: May I suggest, if the Tribunal  
8 please, there are a number of these photographs -- I  
9 do not know how many. When they mark them for identi-  
10 fication under one exhibit number, there will be no  
11 way that the Tribunal or anyone could know how many  
12 pictures were included in that -- were under that  
13 exhibit number. Either they ought to be numbered  
14 separately, or at least the number of pictures under  
15 one exhibit number stated so that we would know.

16                  THE PRESIDENT: Well, they could be ten-  
17 dered, subject to comparison with the originals,  
18 and be numbered and lettered as well. I do not  
19 know what the next number is, but each picture could  
20 have that number plus a letter, a, b, c, and so on.

21                  MR. DONIHI: The group consists of thirteen  
22 pictures, Mr. President.

23                  CLERK OF THE COURT: Exhibit No. 149.

24                  (Whereupon, the document above re-  
25 ferred to was marked prosecution's exhibit

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RECROSS

1 no. 149 for identification.)

2 MR. DONIHI: If the defense does not desire  
3 to cross-examine, we have no further direct.

4 RECROSS EXAMINATION

5 BY MR. FURNESS:

6 Q Mr. NAKAI, as I understand you, you read,  
7 write, and understand English when it is written and  
8 spoken, is that correct?

9 A I think I can.

10 Q Then, when you read this affidavit, you knew  
11 what all the words meant?

12 A Of course.

13 Q There is a word which occurs in this affi-  
14 davit, and occurs in many other affidavits submitted  
15 by the prosecution. The word is "inculcate." Will  
16 you tell us what that means?

17 I ask the interpreter not to translate the  
18 word "inculcate," of course.

19 A That means to insert or add.

20 MR. FURNESS: Did the translator say the  
21 word "inculcate," or did he say the word in Japanese?

22 THE INTERPRETER: The Japanese equivalent  
23 for inculcate was chunyu.

24 MR. FURNESS: Did you translate that word  
25 to him as "chunyu," or did you say "inculcate"?

NAKAI

RE CROSS

1                   LANGUAGE SECTION CHIEF: When the question  
2 was originally put, the term "inculcate" was used in  
3 English.

4                   THE PRESIDENT: Mr. Warren, there is no use  
5 having an argument with the interpreters.

6                   MR. FURNESS: I am not arguing, sir; I just  
7 wanted to know what was said.

8                   I am not Mr. Warren. Mr. Warren seems to be --  
9 I am not Mr. Warren.

10                  THE PRESIDENT: I am sorry.

11                  Q As I understand it, before you signed this  
12 affidavit, you had several interviews with the prosecu-  
13 cution. Is that correct?

14                  A May I have that question repeated?

15                  (Whereupon, the last question was  
16 read by the official court reporter.)

17                  A I was called by Mr. Donihi and interro-  
18 gated.

19                  Q Were you interrogated in English, and did  
20 you answer in English?

21                  A Yes.

22                  Q Were your answers taken down by a steno-  
23 grapher?

24                  A It was.

25                  Q Were you ever shown any copies of the

NAKAI

RE CROSS

1 questions and answers which had been transcribed by  
the stenographer?

A I did not see them.

4 Q This affidavit was prepared for your signa-  
5 ture, was it not, by the prosecution?

6 A My statements were summarized in the state-  
7 ment.

8 Q You did not write or dictate this affidavit  
9 to a stenographer which was prepared by the prosecu-  
10 tion?

11 A I did not understand the question clearly.

Q When you came to your last interview with the prosecution, they had a form of affidavit,-- this affidavit -- all prepared and typed, and you, after reading it, signed it, is that correct?

A That is correct.

17 Q Were you told at these interviews, what  
18 information the prosecution wanted to obtain from  
19 you, and did you give them that information which  
20 was requested?

21 THE MONITOR: (Addressing the official court  
22 reporter) Will you repeat that slowly, please?

(Whereupon, the last question was  
read by the official court reporter.)

A No, I was asked to narrate all that I knew

NAKAI

RE CROSS

about the situation in the motion picture business  
before the war. That I did.

Q Did you give the interrogator of the prosecution any information which is not contained or summarized in this affidavit?

A I did.

Q What information did you give them?

A I told my interrogator about the various types of films and the names of the films which were produced.

Q And that is not contained in this affidavit?

A It is not mentioned in the affidavit, only the most representative one is mentioned in the affidavit.

Q Did you tell them anything else?

A No, I did not.

Q The information as to the other films had to do with films which were not of this propaganda nature, is that correct?

THE INTERPRETER: (Addressing the official court reporter) Will you read that, please?

(Whereupon, the last question was read by the official court reporter.)

THE MONITOR: (Addressing official court reporter) Will you say that again, please?

NAKAI

RE CROSS

1                             (Whereupon, the last question was  
2 again read by the official court reporter.)

3                     A I spoke about motion pictures in general,  
4 with special emphasis on those of a propaganda  
5 nature.

6                             (Whereupon, MATSUZAKI, Susumu  
7 replaced MORI, Tomio as interpreter.)

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Q Could you tell us very briefly, summarizing just what you told the interrogator which is not contained in this affidavit?

A I mentioned the names of many films and also about the motion picture law promulgated in 1939, the ultimate aim of which was state control of motion pictures, and also of the ruling made by the Ministry of Education in 1940, which ruling made it necessary that all pictures approved and passed by the Ministry of Education must be shown in the motion picture theaters of Japan.

I also said that in accordance with this ruling of 1940 by the Ministry of Education three hundred and sixty motion picture films were approved and passed, one hundred and ten of which were devoted to such subjects as national defense, military subjects, the teaching of the handling of weapons and other military subjects to the adolescent Japanese generation.

THE MONITOR: Correction: "three hundred and six."

Q What were the dates between which those films were shown?

A These pictures may be shown at any time. The only thing is that those pictures must be projected

NAKAI

RE CROSS

1       in motion picture houses.

2       Q    I don't think you understood me. Between  
3       what dates were those films shown?

4       A    Beginning the first of January, 1940, for  
5       three years. However, after the lapse of three  
6       years, if those motion picture distributors are de-  
7       sirous, the projection of these films may be extend-  
8       ed for another three years.

9       Q    The balance of the two hundred and fifty  
10      films were not of a propaganda nature?

11      A    Where did you get the figure two hundred  
12      and fifty?

13      Q    The difference between three hundred and  
14      sixty films and one hundred and ten films which you  
15      said were devoted to propaganda.

16      A    I said that there were three hundred and  
17      six pictures of which one hundred and ten were of a  
18      propaganda nature.

19      Q    I am sorry. The balance of one hundred and  
20      four, two hundred and four, were they not of a propa-  
21      ganda nature?

22      A    These pictures were devoted to national  
23      health, physical hygiene, natural science and other  
24      such subjects.

25      Q    That does not include all of the films

NAKAI

RE CROSS

1 produced in Japan, does it? There were other films  
2 of a general nature which were produced for amuse-  
3 ment and entertainment?

4 A Yes. I am only speaking now of cultural  
5 or documentary films.

6 Q About how many films were produced and  
7 shown during that period which were not of that  
8 nature?

9 A Does that mean from what year to what year?

10 Q When this law went into effect in 1940 --  
11 during the same period that the three hundred and  
12 ten films were produced and shown.

13 A Are you speaking of story pictures?

14 Q Entertainment pictures and general pictures  
15 not of this nature that you have just testified to.

16 THE PRESIDENT: I am not too clear about  
17 this, Mr. Furness.

18 MR. FURNESS: What is that?

19 THE PRESIDENT: It seems to be a matter of  
20 simple subtraction to me. I may misunderstand what  
21 you are after.

22 MR. FURNESS: I think, sir, he said three  
23 hundred and six films were produced.

24 THE PRESIDENT: Of which one hundred and ten  
25 were militaristic.

NAKAI

RE CROSS

1 MR. FURNESS: Which had to be shown. One  
2 hundred and ten were militaristic and the balance --

3 THE PRESIDENT: The balance could be ascer-  
4 tained by simple subtraction.

5 MR. FURNESS: The balance were on national  
6 health and other matters but they also had to be  
7 shown. What I am trying to point out is that there  
8 were many other pictures of a general entertainment  
9 nature which did not have to be shown which were pro-  
10 duced and shown in the movie theaters of Japan dur-  
11 ing that period.

12 THE PRESIDENT: I take it there would be  
13 one hundred and ninety-six innocuous pictures and  
14 that the difference between the innocuous pictures  
15 would not matter.

16 MR. FURNESS: I think not, sir.

17 THE PRESIDENT: I must understand what you  
18 are talking about though.

19 Q Were any pictures produced in Japan during  
20 this period not included among the three hundred and  
21 six pictures which you have just mentioned?

22 A Yes, indeed. There were many story pictures  
23 filmed in that period. I do not have the exact fig-  
24 ures but I should think between one hundred and twenty  
25 and one hundred and thirty.

NAKAI

RE CROSS

1 MR. FURNESS: That is all from this counsel.

2 RE CROSS-EXAMINATION (Continued)

3 BY MR. SUGAWARA:

4 Q In your affidavit you state that you have  
5 been engaged in the motion picture business for ten  
6 years. Before that, what were you engaged in?

7 THE MONITOR: Correction: "for the past ten  
8 years."

9 A I was attending school.

10 Q That means you were a student?

11 A Yes.

12 Q At the time of the Manchurian Incident where  
13 were you and what were you doing?

14 A At the time of the Manchurian Incident I was  
15 still a student.

16 Q Then there is no mistake that you were not  
17 engaged in film production at that time?

18 A Yes, that is so. I was merely one of the  
19 members of a club which devoted some of their time  
20 to the study of motion pictures. I was at the Taka-  
21 nawa Commercial School.

22 Q When did you see this picture for the first  
23 time?

24 A At the end of the eighth year of Showa;  
25 that is 1933.

NAKAI

RE CROSS

1           Q   Then you saw this picture at your study  
2         club at your school?

3           A   That is not so. I saw that picture when  
4         a newspaper company's roving movie picture camo  
5         around to a certain school in the Shiba Ward.  
6         After 1935, after entering a company, I had the  
7         opportunity to go around with such a roving movie  
8         picture company to show such pictures myself.

9           Q   Before being interrogated by the prosecu-  
10         tion, when recently did you see this picture?

11          A   Recently I have not seen it.

12          Q   Then in your affidavit you state that the  
13         War Minister at the time was Lieutenant General  
14         ARAKI -- that is more than ten years ago.

15          A   I have read a number of books, but in a  
16         book published by Mr. Fleischer entitled "Whither  
17         Japan?" -- towards the end of this book I noted such  
18         a statement.

19           THE MONITOR: Correction: "published in  
20         1936."

21          Q   The title of the picture itself shows  
22         that the motion picture film in question was produced  
23         by the newspaper Mainichi Shimbun. Now did this  
24         newspaper produce the picture voluntarily on its own  
25         initiative or by some order from the military?

NAKAI

RE CROSS

1           A As for the production of this picture, I  
2 do not know. But as for those pictures produced after  
3 that, I do know that they were produced on instruc-  
4 tions from the authorities.

5           Q As a producer of motion pictures, you must,  
6 no doubt, be experienced in how to make pictures.  
7 Would it be possible for a producer to, for instance,  
8 record the speech of the War Minister and then cut  
9 it and edit it before presentation?

10          A Of course, a part would be used for such  
11 purpose but as for that particular picture, such a  
12 method was not resorted to.

13           LANGUAGE SECTION CHIEF: "And the entire  
14 speech of General NAKAI was given."

15          Q At the time of the Manchurian Incident, you,  
16 as a student, were, no doubt, interested in motion  
17 pictures and through motion pictures, no doubt, also  
18 paying your attention to world developments. Now,  
19 after the Manchurian Incident did you follow closely  
20 the developments within Japan and also developments  
21 in the world?

22          A I was particularly interested in inter-  
23 national problems and I studied such problems seriously  
24 -- earnestly.

25          Q Then are you aware of the situation and the

NAKAI

RE CROSS

1 conditions in China at the time of the outbreak of  
2 the Manchurian Incident?

3 A According to -- from what I gathered from  
4 books and newspapers, I was very well aware of the  
5 problems confronting China.

6 Q Are you also aware that in the light of the  
7 relationship with China as well as with the situation  
8 within Japan that the people were very much anxious  
9 and entertained various misgivings regarding the  
10 situation then developing?

11 A That is so and for that reason I was very  
12 much influenced or moved upon seeing this picture.

13 Q Then are you also aware of the fact that  
14 Japan's intention was not that of world domination  
15 through aggressive means but that her moves were for  
16 purposes of self-defense?

17 THE MONITOR: Correction: "the purpose of  
18 this picture was."

19 MR. JUSTICE MANSFIELD: If the Tribunal  
20 please, I object to this line of cross-examination  
21 as it goes beyond the scope of the direct examination  
22 and I submit is irrelevant.

23 THE PRESIDENT: What tests are you asking  
24 me to apply, Mr. Justice Mansfield?

25 MR. JUSTICE MANSFIELD: The first test is

NAKAI

RE CROSS

1 that it goes beyond the scope of the direct examination.  
2 I ask that the Tribunal confine the cross-  
3 examination to the subject covered by the direct  
4 examination. And secondly, that this witness is not  
5 an expert in international affairs and any answer  
6 he might give to the question asked would be entirely  
7 irrelevant and useless.

8 THE PRESIDENT: What is the next question?  
9

10 Q I am trying to determine the belief of the  
11 witness with respect to the statement in the affidavit  
12 which states that it was Japan's divine mission to  
13 rule the Great Far East and ultimately the world.

14 If, as the prosecution states, this witness is  
15 not an expert on international affairs, then I should  
16 consider this witness as a non-expert and therefore,  
17 there is no need for the witness to reply to my  
18 interrogation.

19 THE PRESIDENT: Treat him as a non-expert.

20 LANGUAGE APPLICATOR (MAJOR MOORE): Mr. President:

21 THE PRESIDENT: Wait until we get the trans-  
22 lation.

23 Q As a result of seeing this picture recently,  
24 one can readily understand that General ARAKI's  
25 philosophy as reflected in his statements -- that is,  
his philosophy is a purely characteristically Japanese

NAKAI

RE CROSS

philosophy, the concept of which is that morality as existing in the universe is formless but ever developing; that if the people, if each individual walks the path according to the teaching of this morality, that would be personal virtue. If a nation treads the path of this morality, it would be a national virtue. And if a people tread the path of this morality, it would be a public morality. It is an over-developing philosophy. It is both unlimited both from the standpoint of time and space. It is universal in its application. It is this virtue of Japan which, through the mouth of General NAKAI, Japan was intending and desiring to disseminate to the world in a moral sense as one of the missions of the Japanese people. It is a philosophy of Japan.

What does the witness think of this?

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1                   THE PRESIDENT: That is not a question really.  
2                   It is a statement, and a very long one, and we cannot  
M 3                   permit statements of that length, terminating in a  
o 4                   short question, and the witness could not be expected  
s 5                   to answer that. It is a matter for an expert, and a  
& 6                   very good one, and he is not an expert. We have some  
A 7                   little difficulty about the attitude of the prosecu-  
b 8                   tion on affidavits. As long as the question is relevant  
r 9                   to the issue, it is admissible. It is not necessarily  
a 10                  confined to the affidavit. If the cross-examination  
m 11                  is to be limited here to the affidavit, then we may  
12                  have to reconsider whether we will allow this matter  
13                  to proceed on affidavit, because it will impose an  
14                  undue limitation upon the defense.

15                  I think we have heard enough from you. I  
16                  think you have exhausted all the legitimate ques-  
17                  tions that you have to put.

18                  MR. JUSTICE MANSFIELD: If the Tribunal  
19                  please, the prosecution's position is that it does  
20                  not suggest that the cross-examination should be  
21                  limited to the matter contained in the affidavit, but  
22                  to the field covered by the affidavit.

23                  THE PRESIDENT: Well, the field is  
24                  militaristic propaganda, from which the accused's  
25                  counsel did not depart.

NAKAI

RE CROSS

1                   Is there any further cross-examination?

2                   DR. KIYOSÉ: The defense has no more cross-  
3                   examination.

4                   MR. DONIHI: The prosecution does not desire  
5                   to reexamine.

6                   (Whereupon, the witness was excused).

7                   MR. DONIHI: Mr. President, the prosecution  
8                   would like to call Captain Donohue as a witness.

9                   MARSHAL OF THE COURT: Mr. President, the  
10                  witness, Captain Donohue, is in court and will now be  
11                  sworn.

12                    
13                  T. F. D O N O H U E, called as a witness on be-  
14                  half of the prosecution, being first duly  
15                  sworn, testified as follows:

16                   DIRECT EXAMINATION

17                  BY MR. DONIHI:

18                  Q   Will you state your name to the Court?

19                  A   Captain T. F. Donohue, U.S.N.

20                  Q   What command do you now hold with the  
21                  United States Navy?

22                  (Whereupon, IWAMOTO, Masahito

23                  replaced MOTONO, Seiichi as interpreter.)

24                  A   No command at present. I am attached to  
25                  the staff of ComNavJap as mine sweeping officer.

DONOHUE

DIRECT

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1           Q   How long have you been a member of the  
2           United States Navy?

3           A   It will be twenty-three years next month.

4           Q   What commands have you held in those twenty-  
5           three years?

6           A   I have served on all types of combatant  
7           ships, battleships, heavy cruisers, destroyers,  
8           submarines and mine sweepers. The commands have  
9           been three different mine sweeping squadrons.

10          Q   As a Captain in the United States Navy  
11          have you familiarized yourself with the various  
12          types of ships of the various navies of the world?

13          A   Yes.

14          Q   I hand you herewith some photographs of  
15          ships. Will you identify them for me?

16          A   These are ships of the United States  
17          Navy of the Maryland class, Maryland and California  
18          classes.

19          Q   Are all of the photographs included in  
20          that same category?

21          A   All these photographs comprise pictures of  
22          the Maryland and California class battleships, Ameri-  
23          can battleships.

24          Q   Are the pictures which you now hold in your  
25          hand pictures of American battleships?

DONOHUE

DIRECT

1           A   Positively, yes.

2           MR. DONIHI: This is exhibit No. 149, may it  
3   please the Court. I should like to have them marked  
4   for identification at this time, as part of the testi-  
5   mony of this witness.

6           THE PRESIDENT: They will be numbered and  
7   lettered as before.

8                             (Whereupon, the photographs above re-  
9   ferred to were marked prosecution's exhibit No.  
10   149 for identification.)

11           MR. DONIHI: They are herewith tendered.  
12          The witness will not be further examined by the pro-  
13   secution.

14           THE PRESIDENT: Any cross-examination?

15           MR. LOGAN: No cross-examination.

16           THE PRESIDENT: That will do, witness; leave  
17   the box, please.

18          There is Japanese counsel standing up at the  
19   back. I did not notice him.

20           MR. NARITOMI: If we are to make any cross-  
21   examination we should have an opportunity to view the  
22   pictures first. What shall we do about it?

23           THE PRESIDENT: Well, the witness will be  
24   called for cross-examination later if necessary.  
25   That ought to satisfy him.

DONOHUE

1                   MR. NARITOMI: That means then, Mr. President,  
2                   that we of the defense may call this witness at a  
3                   later date, after we have purviewed the evidence  
4                   offered by the prosecution with respect to this wit-  
5                   ness?

6                   THE PRESIDENT: Yes. They do not know them-  
7                   selves whether they want to cross-examine him or not.

8                   MR. NARITOMI: That will be all right.

9                   (Whereupon, the witness was excused.)

10                  MR. DONIHI: The prosecution now desires to  
11                  examine Mr. Tomin SUZUKI as a witness.

12                  THE PRESIDENT: We will now recess for  
13                  fifteen minutes.

14                  (Whereupon, at 1043, a recess was  
15                  taken, after which the proceedings were  
16                  resumed as follows:)

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1                    MARSHAL OF THE COURT: The International  
2                    Military Tribunal for the Far East is now resumed.

3                    THE PRESIDENT: The motion which I stated  
4                    in Chambers today would be taken at nine o'clock  
5                    tomorrow morning will be taken at nine-thirty.

6                    Yes, Mr. Donihi.

7                    MR. DONIHI: At this time, if it please  
8                    the Tribunal, the prosecution should like to de-  
9                    liver into the hands of the Clerk of the Court, the  
10                  film, twelve reels, entitled "Critical Period of  
11                  Japan," and ask that it be marked as the testimony  
12                  of the witness NAKAI.

13                  CLERK OF THE COURT: This has been marked  
14                  exhibit 148.

15                  THE PRESIDENT: It cannot be 148. There  
16                  is 149 and 150.

17                  CLERK OF THE COURT: 148 that we already  
18                  have is the excerpts from this film. So it will  
19                  be 148 with the usual letters, you see, for each.

20                  (Whereupon, the document orig-  
21                  inally marked prosecution's exhibit No.  
22                  148 was marked prosecution's exhibit No.  
23                  148-a and the film above referred to was  
24                  marked prosecution's exhibit No. 148-b to  
25                  m inclusive for identification.)

1                   MR. McMANUS: Mr. President and Members of  
2                   the Tribunal, if this film is to be marked as an ex-  
3                   hibit, I request the President to instruct the prose-  
4                   cution that the whole film be shown in its entirely  
5                   and no parts thereof.

6                   THE PRESIDENT: I suppose the instruction  
7                   is unnecessary, but I give it.

8                   MR. DONIHI: Will you state your name to  
9                   the Tribunal, please?

10                  MARSHAL OF THE COURT: I beg your pardon.  
11                  The witness has not been sworn, sir.

12                  (Whereupon, Mr. SUGAWARA pro-  
13                  ceeded to the lectern.)

14                  THE PRESIDENT: We should not allow these  
15                  interruptions. What do you want to say?

16                  MR. SUGAWARA: I should like to say a few  
17                  words regarding this motion picture film.

18                  THE MONITOR: Correction: Motion picture  
19                  film's translation.

20                  MR. SUGAWARA: On Saturday the members of the  
21                  defense counsel and members of the language section  
22                  conferred with respect to the translation. As a  
23                  result of this conference, the Japanese version of  
24                  the commentary presented to us by the prosecution  
25                  contains at least twenty-seven errors, errors which

SUZUKI

DIRECT

1       in my mind are very serious errors. These are very  
2       important questions in the sense that some facts  
3       contained therein which are, in our estimation, fav-  
4       orable to the defense are interpreted in a manner  
5       inimical to the position of the defense.

6             THE PRESIDENT: It is now too late to dis-  
7       cuss the matter further at this stage. I told you  
8       and others that you would be able to cross-examine  
9       after the picture had been shown; and in the course  
10      of the cross-examination you will be able to estab-  
11      lish the errors, perhaps. There is no need for any  
12      further discussion this morning. That will do.

13             MARSHAL OF THE COURT: Mr. President, the  
14      witness SUZUKI is in court and will now be sworn.

15             T O M I N    S U Z U K I, called as a witness on be-  
16       half of the prosecution, being first duly sworn,  
17       testified as follows:

18                     DIRECT EXAMINATION

19             BY MR. DONIHI:

20             Q    Will you state your name to the Tribunal?

21             A    SUZUKI, Tomin.

22             Q    I hand you herewith, Mr. Tomin -- Mr. SUZUKI,  
23      a document marked prosecution document 11,526, and  
24      Tribunal exhibit No. 150.

SUZUKI

DIRECT

1  
2 Q (Continuing) Will you examine this document and  
3 determine whether you have seen it before?

4 A There is no mistake.

5 Q Is that document your affidavit?

6 A Yes.

7 Q Do you read English, Mr. SUZUKI?

8 A Yes, I can read English.

9 Q Before signing this affidavit, did you read  
10 the full text of English and then was it translated  
11 from English into Japanese for you?

12 A I read the statement in its entirety in  
13 English.

14 MR. DONIHI: May I proceed to read the affi-  
15 davit, Mr. President?

16 "International Military Tribunal for the Far  
17 East. The United States of America, et al, against  
18 ARAKI, Sadao, et al. Affidavit.

19 "I, SUZUKI, Tomin, make oath and say as  
20 follows:

21 "I am an editorial writer, and have been  
22 employed since 1935 by the newspaper Yomiura Shimbun.  
23 On numerous occasions between 1935 and the outbreak  
24 of the Pacific War in December 1941, I wrote articles

SUZUKI

DIRECT

1 favoring settlement of the China dispute, depicting  
2 peace, questioning Japan's right to rule China and  
3 criticizing Japanese military aggression. All of my  
4 writings on these subjects were written in a manner  
5 calculated not to be offensive to governmental policy.  
6 On each occasion I thus indicated disfavor in my  
7 writings with governmental policy I received visits  
8 from the military police and civil police, who warned  
9 me not to write upon such subjects again.

10 "Newspapers and publications in Japan since  
11 1935 have been subjected to strict censorship directed  
12 by the government and put in practice by the Home  
13 Ministry. Newspapers were not permitted to print  
14 anything on political matters except such news items  
15 as were issued by the various ministries of the  
16 government, with the result that newspapers published  
17 little besides propaganda tending to justify Japanese  
18 militaristic and aggressive warfare objectives. In  
19 addition to the various censorship laws in existence,  
20 it was the practice for the government through the  
21 Home Ministry, to issue press bans on news items,  
22 which officials of the government decided should be  
23 withheld from the Japanese public.

24 "The various ministries of the government  
25 directed newspapers in relation to the manner in

SUZUKI

DIRECT

1 which news items should be treated, and in addition  
2 thereto, it was the practice particularly of the Navy  
3 Press Bureau, Army Press Bureau and Foreign Office  
4 Press Bureau to call individual writers and journal-  
5 ists to their offices periodically and issue instruc-  
6 tions to them as to the material which could be pub-  
7 lished and the manner in which such material must be  
8 published.

9 "That newspapers and publications in Japan  
10 from 1935 until the termination of the Pacific War  
11 were completely under the control and domination of  
12 the Japanese government, and during these years there  
13 was no such thing as the semblance of a free press  
14 in Japan."

15 Signed "Tomin SUZUKI."

16 Prosecution tenders herewith the affidavit  
17 of this witness and asks that it be marked an exhibit  
18 and to be used as the evidence of direct examination.

19 (Whereupon, the document above  
20 referred to was marked prosecution's exhibit  
21 No. 150 for identification.)

22 THE PRESIDENT: Admitted.

23 (Whereupon, prosecution's exhibit  
24 No. 150 was received in evidence.)

25 Q Mr. SUZUKI, are all of the statements ..

SUZUKI

DIRECT  
CROSS

1 contained in this affidavit true and correct?

2 A All true, so I think.

3 MR. DONIHI: The defense may examine the  
4 witness.

5 THE PRESIDENT: Dr. KIYOSÉ.

6 CROSS EXAMINATION

7 BY DR. KIYOSÉ:

8 (Whereupon, Dr. KIYOSÉ proceeded to  
9 interrogate the witness in Japanese.)

10 LANGUAGE ARBITER (Major Moore): Mr. Presi-  
11 dent, could we humbly suggest that counsel make their  
12 statements short? It is absolutely impossible --  
13 sometimes the interpreter can, fortunately, take a  
14 long sentence and put it into good English or  
15 Japanese. But we simply put a burden on the inter-  
16 preters, sir, which I feel is unjust.

17 Q Mr. SUZUKI, in the last paragraph of the  
18 affidavit you state: "That newspapers and publica-  
19 tions in Japan from 1935 until the termination of the  
20 Pacific War were completely under the control and  
21 domination of the Japanese government, and during  
22 these years there was no such thing as the semblance  
23 of a free press in Japan."

24 Yet, in spite of that statement, Mr. SUZUKI,  
25 you yourself have written on four subjects during the

SUZUKI

CROSS

1       existence of such a rigid control; one favoring  
2       settlement of the China dispute, another depicting  
3       peace, and another questioning Japan's right to rule  
4       China, and another criticizing Japanese military  
5       aggression.

6             THE PRESIDENT: Well, the question, of course,  
7       must be as long as the circumstances warrant. That  
8       question is based on a paragraph of the affidavit  
9       and is necessarily lengthy. But I would ask  
10      Dr. KIYOSÉ to make his questions as short as possible.

11            I suggest, Dr. KIYOSÉ, that when drafting  
12      this question, you might have put it this way:  
13           Notwithstanding what you say in paragraph such-and-  
14      such of your affidavit, haven't you written certain  
15      articles?

16           DR. KIYOSÉ: I shall do as advised. Then,  
17      I shall state the same question in a different form.

18           Q     In your affidavit you state that from 1935  
19      to the end of the war, the Japanese press has been  
20      under complete government control. Is it so?

21           A     It is as you say.

22           Q     Notwithstanding that, you have written  
23      articles favoring a speedy settlement of the China  
24      Incident, as well as articles condemning or criti-  
25      cizing Japanese military action. Is that all right,

SUZUKI

CROSS

1 as you state?

2 THE MONITOR: Correction: Aggression.

3 A I was not allowed to publish my opinion on  
4 such problems at that time in the press. However,  
5 in certain magazines where a certain freedom of  
6 speech was allowed, I made such statements. In some  
7 liberal magazines I took the opportunity to express  
8 such an opinion.

9 Q Then, these four articles were not written  
10 by you as an editorial writer, isn't that so?

11 A As an editorial writer I did not possess  
12 such freedom.

13 Q But in the last paragraph of your affidavit  
14 you say that newspapers and publications in Japan  
15 were under complete government control?

16 A There is a certain amount of difference  
17 between newspapers and magazines. As soon as the  
18 government began to place restrictions on press pub-  
19 lications, the various newspapers soon began to play  
20 into the hands of the government officials and these  
21 restrictions were obeyed to the very letter.

22 However, as far as magazine editors were  
23 concerned, there were not a few among them who tried  
24 to make use of whatever loopholes there were left in  
25 such regulations, and I was able to make use of such

SUZUKI

CROSS

1       loopholes.

2                     THE MONITOR: Correction: Rather than  
3                     magazine editors, magazine publishers.

4             Q     Is my understanding correct when I take you  
5             to mean in the first half of your reply that you  
6             stated that the press in some instances even went  
7             ahead of the government in truckling with the govern-  
8             ment in enforcing certain controls over the press?

9             A     That is so.

10            Q     With respect to publications other than  
11            newspapers you spoke about, that you were able to  
12            take advantage of certain loopholes: I take it that  
13            your statement is correct?

14            A     That is so.

15            Q     In other words, then, you mean to say that  
16            the four articles, the articles you wrote on these  
17            four subjects, were written by taking advantage of  
18            these loopholes in the restrictions?

19            A     That is so.

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1 Q Until when were you with the Yomiuri  
2 Shimbun?

3 A I was with the Yomiuri Shimbun until the  
4 end of September, 1944. However, up until September  
5 15, 1945 I was suspended from duty at that newspaper.

6 Q And recently?

7 A I am now with the Yomiuri Shimbun.

8 Q Then you are a member of the Yomiuri  
9 Shimbun staff at the present moment?

10 A Yes. I am now a member of the Yomiuri  
11 Shimbun staff.

12 Q Are you connected in any way with the  
13 strike at the Yomiuri Shimbun?

14 A Yes, I have some connection.

15 Q Hasn't the witness an ideology which is  
16 quite close to communism?

17 A I am an exponent of democracy in Japan.  
18 I am a pupil or disciple of Dr. YOSHINO who was an  
19 active advocate of democracy in Japan.

20 THE PRESIDENT: His politics hardly concern  
21 us. His war aptitude does.

22 Q Is there any evidence or indication that  
23 the government, during the war, misunderstood you  
24 to be a communist?

25 A Mr. KIYOSÉ has just called me a liberal.

SUZUKI

CROSS

1           But, may I correct that? I am a democrat.

2           Q   Now I understand you to be a democrat,  
3           whatever that may be. Is it so that during the war  
4           the government misunderstood you to be a communist?

5           A   That is so. The Japanese police did every-  
6           thing in their power to make a communist out of me.  
7           On the twelfth of September, 1944 I was called to  
8           the Yokohama police station. The officer who was  
9           in charge of the investigating into my activities --  
10           namely, a certain KARASAWA -- told me that the  
11           ideology I possessed leaned far to the left; that  
12           is to say, I was a communist.

13           THE MONITOR: Correction: twenty-second  
14           of September, 1944.

15           THE PRESIDENT: I have heard sufficient on  
16           the question of alleged bias, Dr. KIYOSE.

17           (Whereupon, IWAMOTO, Masahito  
18           replaced MATSUZAKI, Susumu as interpreter.)

19           CROSS-EXAMINATION (Continued)

20           BY MR. FURNESS:

21           Q   In the second paragraph of your affidavit  
22           you state that on numerous occasions, between 1935  
23           and the outbreak of the Pacific War in December,  
24           1941, you wrote various articles, some on the settle-  
25           ment of the China dispute, some depicting peace, some

1 questioning Japan's right to rule China, and some  
2 criticizing Japan's military aggression. Will you  
3 now give us the names of those articles. At the  
4 same time, give us in what publication each of the  
5 articles appeared, and at the same time give us  
6 the date of the publications.

7 A During the war I changed my residence so  
8 frequently that I lost all the data I had in my  
9 possession. Furthermore, realizing that it would  
10 be a danger to me if I kept a diary, I kept no  
11 notation of anything I wrote. Therefore, I have  
12 nothing in the way of materials to offer informing  
13 you of what articles were written when and in what  
14 publications.

15 Q Then you don't remember the names of the  
16 articles, the publications in which they were  
17 published, or when they were published; is that  
18 correct?

19 THE MONITOR: Will the reporter kindly  
20 read the last question?  
21

22 (Whereupon, the last question was  
23 read by the official court reporter.)  
24

25 A If I am to recollect my memory, I might say  
that on April 16, 1937 I wrote an article in the  
Yomiuri Shimbun criticizing the Nazis. I wrote

SUZUKI

CROSS

1       this article stating that if Japan and Nazi Germany  
2       should collaborate it would drag Japan into an  
3       aggressive war, and, therefore, such collaboration  
4       must be avoided.

5             THE MONITOR: Correction: In order to  
6       prevent such collaboration, I wrote that article.

7       A (Continuing) At about the same time I  
8       wrote an article in a magazine, Bungei Shunju, on  
9       the subject of "European Peace," stating that the  
10      peace-loving nations must enter into a pact of  
11      mutual guarantee in order to meet the possibilities  
12      of German aggression.

13       Q    What articles did you write favoring  
14      settlement of the China dispute?

15       A    I wrote little about the China Incident,  
16      but I do recall that I have written articles on  
17      the subject.

18       Q    You have kept none of these articles and  
19      delivered none to the members of the prosecution  
20      prior to giving your affidavit; is that correct?

21       A    I have not presented my articles to the  
22      prosecution. However, I can say that there is not  
23      one falsehood in what I have stated in my affidavit.  
24      A magazine called "Jiron" of a recent number has  
25      carried an article by one, UCHIYAMA, Rin on the

SUZUKI

CROSS

1 subject of Tomin SUZUKI. In that article he states  
2 that SUZUKI, that is myself, during the war loyally  
3 upheld the principle of pacifism even though in a  
4 passive manner.

5 MR. FURNESS: If this were an ordinary  
6 Court I would move to strike out that latter part  
7 of the answer, but I understand that it is not to  
8 be stricken unless it is scandalous.

9 THE PRESIDENT: That is correct. We will  
10 not sustain that unless it is scandalous or malicious.

11 THE MONITOR: Will the reporter please  
12 read the last statement by Mr. Furness?

13 (Whereupon, the last statement  
14 by Mr. Furness was read by the official  
15 court reporter.)

16 Q In connection with all your troubles in  
17 the government that you mentioned in your affi-  
18 davit, I understand that you have never been ar-  
19 rested or detained by the police, is that correct?  
20

21 A I have never been arrested, but I was de-  
22 tained for two days by the Yokohama police for inves-  
23 tigation; and, instead of being arrested, I was  
24 ordered to leave Yokohama and to stop writing or  
25 lecturing. Thereupon, on the promise that I would  
go to a farm in the prefecture of Iwate, I was not

SUZUKI

CROSS

1 arrested or indicted, and I was engaged in farming  
2 for about a year in that prefecture.

3 Q In connection with making this affidavit  
4 prior to signing it, you had several interviews with  
5 the prosecution, is that correct?

6 A Yes, that is true.

7 Q You were asked questions in English or  
8 Japanese?

9 A The questions were put to me in English  
10 and translated by an interpreter.

11 Q And the answers that you had given were  
12 given in Japanese and translated into English, is  
13 that correct?

14 A That is correct.

15 Q And those answers in English were taken  
16 down by the stenographer; is that correct?

17 A I know it was rendered into English be-  
18 cause I saw the document later, but I do not know  
19 whether it was taken down by a stenographer be-  
20 cause I was not there at the time.

21 Q Did you ever see a copy of the questions  
22 and answers which were put to you -- those interro-  
23 gations -- prior to signing the affidavit?

24 A Yes, I read it.

25 Q Do you understand that I am not referring

SUZUKI

CROSS

1 to this affidavit? I am referring to questions and  
2 answers -- questions which were asked of you at the  
3 preliminary interrogations, answers which you gave  
4 at the same time which were taken down.

5 A That I have not seen.

6 Q So that after these preliminary interviews  
7 you were presented with an affidavit which had been  
8 made up from the information you gave the prosecu-  
9 tion and requested to sign, is that correct?

10 A It is as you just said.

11 Q And during the interviews you were told by  
12 the prosecution what information they wanted to  
13 obtain from you, and you gave them that information,  
14 is that correct?

15 A That is a fact.

16 THE PRESIDENT: I should like to explain,  
17 in relation to this matter of striking out parts of  
18 an answer, that we have not been able to agree upon  
19 a practice of any particular nation. There are  
20 eleven nations represented here, and each is entitled  
21 to have its own procedure considered. But that is  
22 the best we have been able to do as regards striking  
23 out.

24 That may help you to bear the decisions of  
25 the Tribunal a little more philosophically, Mr.

SUZUKI

CROSS

1                   Furness.

2                   MR. FURNESS: The answer was not responsive  
3                   and very self-serving. Those were my grounds for  
4                   objection.

5                   THE PRESIDENT: This is a convenient break.  
6                   We will recess now until thirty minutes after one.

7                   (Whereupon, at 1200, a recess was  
8                   taken.)

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The Tribunal met, pursuant to recess, at  
1330.

(English to Japanese and  
Japanese to English interpretation was  
made by MORI, T. and SHIMANOUCH, T.,  
Akira Itami acting as Monitor.)

MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

MR. LOGAN: May it please the Tribunal.

## CROSS-EXAMINATION

BY MR. LOGAN:

Q Mr. SUZUKI, did censorship prevail in Japan  
prior to 1935?

A I think censorship was in existence before  
that time.

Q As a matter of fact, it has been in  
existence in Japan since the beginning of the  
Twentieth Century, is that not true?

A I think that is true.

Q Now, in your opinion, as a newspaper man,  
is strict censorship necessary in any country during  
hostilities?

A I recognize that.

SUZUKI

## CROSS

Q That is true?

A It is true.

Q At the time you gave your statements to the prosecution, did you give anyone in the office of the prosecution any information not contained in your affidavit?

A I don't remember saying anything beyond what has been written in my affidavit.

MR. LOGAN: That is all.

THE PRESIDENT: Is there any further cross-examination?

12 It is understood that only one counsel will  
13 be heard on behalf of each accused.

14 MR. HOZUMI: Mr. President, I would like to  
15 have an examination taken as representative of Mr. TOGO.  
16 I may take it, with the Court's permission, for KIDO  
17 also.

## CROSS-EXAMINATION

BY MR. HOZUMI:

20 Q. Have you, Mr. SUZUKI, at about the time of  
21 the outbreak of the war of Greater East Asia written  
22 any articles in newspapers or magazines with refer-  
23 ence to this war?

A In magazines I wrote many articles.

25 Q Have you, Mr. SUZUKI, in 1941 met Mr. TOGO,

SUZUKI

CROSS

1 then Foreign Minister, received some information,  
2 and then wrote an article centering around that story?

3 A When I wrote about Mr. TOGO, the Foreign  
4 Minister at that time, in the magazine, "Contemporary  
5 Japan," I interviewed him.

6 Q At that time, or on another occasion -- I  
7 do not myself know which -- when you met Mr. TOGO,  
8 the Foreign Minister, did you not hear from Mr. TOGO  
9 the fact that he in accepting the office of Foreign  
10 Minister had talked over this matter with the then  
11 Prime Minister, General TOJO, and had received from  
12 the Premier assurances that he, too, would make every  
13 effort possible to bring about a settlement of the  
14 Japanese-American negotiations? Do you recall any  
15 statement of the Foreign Minister of that kind?

16 A I have always believed Mr. TOGO to be an  
17 exponent of peace, and when he accepted his post as  
18 Foreign Minister in the TOJO Cabinet, I was very  
19 much surprised, and I asked him why he accepted this  
20 post. Mr. TOGO informed me that he had received  
21 definite assurances from General TOJO that his, namely,  
22 Mr. TOGO's policy -- foreign policy -- will be sup-  
23 ported by General TOJO, and inasmuch as General TOJO's  
24 policy was to bring about a peaceful settlement between  
25 Japan and America, Mr. TOGO accepted the post, and it

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4 Minister at that time, in the magazine, "Contemporary  
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8 the Foreign Minister, did you not hear from Mr. TOGO  
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11 Prime Minister, General TOJO, and had received from  
12 the Premier assurances that he, too, would make every  
13 effort possible to bring about a settlement of the  
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21 definite assurances from General TOJO that his, namely,  
22 Mr. TOGO's policy -- foreign policy -- will be sup-  
23 ported by General TOJO, and inasmuch as General TOJO's  
24 policy was to bring about a peaceful settlement between  
25 Japan and America, Mr. TOGO accepted the post, and it

SUZUKI

CROSS

1 was General TOJO's opinion at that time that the rea-  
2 son for his assuming the post of War Minister and  
3 Prime Minister at the same time was in order to sup-  
4 press military, which was very important at that time  
5 to effect this peaceful solution. "That is why I re-  
6 ceived the post," he informed me then, but I was doubt-  
7 ful and I tried to make sure whether he was thoroughly  
8 convinced that General TOJO would live up to his  
9 words. To my question Mr. TOGO answered that he had  
10 known General TOJO for a long time, and he was more or  
11 less convinced that even General TOJO was aware that  
12 in order to bring about a peaceful solution of the  
13 problem between Japan and America, it was necessary  
14 for him to keep such a promise. He told me he was  
15 thoroughly convinced that General TOJO would not be-  
16 tray him.

17 Q Have you ever written an article on what you  
18 have just spoken about?

19 A I did not write any article on that point.

20 Q Then it is quite certain that you heard what  
21 you have just said from Mr. TOGO?

22 A I wish to correct what I have said before.

23 I wish to say that after the conclusion of  
24 the war, I wrote an article to this effect.

25 MR. HOZUMI: Thank you.

SUZUKI

CROSS

1                   THE PRESIDENT: Does any other counsel wish  
2 to cross-examine?

3                   Mr. Donihi.

4                   MR. DONIHI: The prosecution will not examine  
5 the witness further, Mr. President.

6                   (Whereupon, the witness was excused.)

7                   MR. DONIHI: Mr. President, after reflecting  
8 upon the prosecution's case thus far, we have de-  
9 cided that five witnesses, who have been subpoenaed  
10 heretofore, will not be necessary to our case, and  
11 we ask leave of the Tribunal to excuse them.

12                  Three of these witnesses have made affi-  
13 davits which have been circulated to defense counsel.  
14 The names of those witnesses are: OGAWA, Keisei,  
15 OGAWA being the proper name, Document 11502;  
16 MOTOHASHI, Gisuke, Document 11501; and TATSUO,  
17 Iwabuchi, Document 11512.

18                  The two witnesses subpoenaed who have not  
19 made affidavits are Miss Georgiana Foster, and Dr.  
20 H. Graham Belcher.

21                  At this time may I direct the Tribunal's  
22 attention to the Constitution of Japan under the  
23 Bill of Rights, Chapter 2, Article 29, this document  
24 having been heretofore introduced by Mr. Horwitz and  
25 made exhibit 68 of the Tribunal.

1                   Article XXIX: "Japanese subjects shall,  
2 within the limits of law, enjoy the liberty of speech,  
3 writing, publication, public meetings, and associa-  
4 tions."

5                   Directing now the Tribunal's attention to  
6 exhibit No. 84, heretofore introduced by Mr. Horwitz,  
7 which exhibit is known as the Natioaal General  
8 Mobilization Law, Article 20 of which provides:

9                   "If necessary for national general mobiliza-  
10 tion in time of war the Government may restrict or  
11 prohibit the insertion of articles in newspapers or  
12 other publications, in accordance with prohibitions  
13 of Imperial Ordinances.

14                  "The Government may prohibit sales and  
15 distribution of newspapers or other publications  
16 containing items which hinder the national general  
17 mobilization in violation of restriction or prohibi-  
18 tion under the foregoing provision, and may attach  
19 them. In this case the Government also may attach  
20 their original plates."

21                  Directing now the attention of the Tribunal  
22 to exhibit 72, known as the Organization of the Board  
23 of Information:

24                  "The Board of Information shall be under  
25 the jurisdiction of the Prime Minister and take charge

1       of affairs concerning the following matters:

2             "1. Collection of information, reporting,  
3             enlightenment and publicity concerning matters which  
4             are the fundamentals of the prosecution of national  
5             policies.

6             "2. Dispositions in respect of newspapers  
7             and other publications as provided for in Article 20  
8             of the National Mobilization Law.

9             "3. Guidance and control in respect of  
10            broadcasting by telephone.

11            "4. Such guidance and control of motion-  
12            pictures, phonograph records, plays and shows as are  
13            necessary for the enlightenment and publicity con-  
14            cerning matters which are fundamentals of the pros-  
15            ecution of national policies.

16            "The Board of Information may, if necessary  
17            for the execution of the affairs mentioned in the  
18            preceding Paragraph, request the Government offices  
19            concerned to extend their cooperation in connection  
20            with the collection of information, reporting, en-  
21            lightenment and publicity."

22            CAPTAIN KLEIMAN: May it please the Tribunal,  
23            not having been versed with the practice in any other  
24            country than the United States, I cannot understand  
25            what Mr. Donihi is doing right now. It appears to me

1       that he is summing up. Will we all not be given an  
2       opportunity to sum up at the conclusion of the case  
3       for the prosecution and of the defense? Is not what  
4       he is doing now out of order in accordance with the  
5       rules of procedure and the rules of the Charter, sir?

6             THE PRESIDENT: I am unable to see how it  
7       can be in order. I agree with Captain Kleiman that  
8       it is out of order.

9             Captain Kleiman anticipated me. I listened  
10      carefully with a view to asking you what you would  
11      call this. It really is an explanation of the reason  
12      for the evidence we have just heard, is it not?

13            MR. DONIHI: The Court will recall that on  
14      Thursday, I believe, I made particular note to the  
15      Court's attention that I would ask leave to direct  
16      the Court's attention to such portions of the evi-  
17      dence that has gone in as might be pertinent to the  
18      phase of the case. At that time, Mr. President, you  
19      will recall that I was introducing documents merely  
20      by title.

21            THE PRESIDENT: This is really a summing  
22      up of a section of your evidence. It is very definitely  
23      helpful to us, but, as Captain Kleiman suggests, I do  
24      not really know where it may lead to eventually.

25            MR. JUSTICE MANSFIELD: If the Tribunal

1 please, the document referred to was one of those  
2 admitted by the Court subject to all objections as  
3 to the materiality, relevancy, and other substantial  
4 grounds.

5 They were introduced prior to the commence-  
6 ment of the evidence in this case, and it was stated  
7 that when they were introduced they would be re-  
8 ferred to during the presentation of the different  
9 phases, so that they could then be linked with the  
10 story which was being put before the Court by the  
11 prosecution.

12 The particular document referred to is one  
13 of those, and it has now been referred to so that  
14 if there is any desire on the part of the defense  
15 to make any objection on the grounds of relevancy,  
16 materiality, or any other substantial ground, it can  
17 now be done. It now links in with this particular  
18 phase of the case.

19 THE PRESIDENT: We gave you leave to open  
20 your case in sections, and we could give you leave  
21 to sum up in sections.

22 MR. JUSTICE MANSFIELD: This is not a sum-  
23 ming up, if the Court please. This is a reference to  
24 an actual document from Japanese government sources,  
25 and it shows the controls which were legally

1 exercisable over propaganda, censorship, and so on  
2 by the different ministries, and it links in with  
3 the evidence which has already been given.

4 THE PRESIDENT: Is it what the Japanese  
5 government or the accused did that matters? The  
6 powers they held in their state are quite relevant.  
7 If they did these things without having the power to  
8 do so, so much stronger the case against them, but  
9 why the prosecution should want to show the source  
10 of their authority and show it was legal I do not  
11 know.

12 This case will be unduly prolonged if the  
13 prosecution is going to undertake to show what the  
14 Japanese accused did had some foundation in law.  
15 That does not concern us. If it had no foundation in  
16 law it would add to the malice of their conduct,  
17 but it is not for the prosecution to prove that it  
18 had a foundation in law. That might be for the  
19 defense.

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1                   MR. JUSTICE MANSFIELD: This document as is  
2                   termed, is headed "Handle as Ultra-Secret, General  
3                   Mobilization" and it was obtained from the War Min-  
4                   istry. It is an ordinance passed by the War Ministry  
5                   at a time when Japan was preparing for war and taking  
6                   all safeguards to see that proper preparations were  
7                   made and it is part of the acts of the War Ministry,  
8                   is part of a government then preparing for war, and  
9                   the prosecution proposes to prove that the members  
10                  of the government at that time knew, and that includes,  
11                  of course, some of the defendants, knew, of course,  
12                  that this preparation was being made, and it was all  
13                  part of the general conspiracy.

14                  CAPTAIN KLEIMAN: If it please the Tribunal,  
15                  I understand that we do have a charge of conspiracy,  
16                  that each of these defendants are alleged to have  
17                  been involved in certain agreements, in certain  
18                  actions where there is a common plan. But, never-  
19                  theless, are they each not an individual defendant  
20                  before this Tribunal? Do we now forfeit our right  
21                  to object if the prosecution does not connect my  
22                  particular defendant HIRANUMA? So far I have not  
23                  heard one word before this Tribunal that has con-  
24                  nected any of the alleged acts to the defendant  
25                  HIRANUMA and I am waiting for that period; and when

1       that period arises, I will object to the various  
2       documents on the ground that they do not concern his  
3       particular case because he, in that particular con-  
4       spiracy, had not been involved.

5           MR. JUSTICE MANSFIELD: I was reporting to  
6       the Tribunal. This is not a summing up. A new ob-  
7       jection is now being raised.

8           THE PRESIDENT: May I say that objection  
9       is of no weight at all. We have pointed out frequent-  
10      ly that all of these documents were being admitted  
11      subject to being connected up with the accused later.

12          MR. JUSTICE MANSFIELD: We do not say that  
13       every act of each accused in relation to the conspir-  
14       acy was not authorized by law. We say that in most  
15       cases, probably in almost every case, they had author-  
16       ity under the law to do the things which they did,  
17       and we, therefore, establish the foundation for their  
18       actions by showing the law and the authority under  
19       which they acted. And the prosecution has viewed  
20       the whole of the evidence and after full consider-  
21       ation it has, as part of its case, come to the con-  
22       clusion that this particular document and other doc-  
23       uments of a like nature are essential in the present-  
24       ation of a proper case and in the fulfillment of a  
25       duty to prove this case properly and beyond a

1 reasonable doubt. And without a general knowledge of  
2 the whole of the facts, I respectfully submit, that  
3 it is very difficult to come to a conclusion that a  
4 particular fact is not a relevant one.

5 THE PRESIDENT: Of course, the conspiracy  
6 alleged here is a conspiracy against international  
7 law. The state of the law in Japan is beside the  
8 question unless you can show that the law of Japan  
9 was enacted or administered in order to further the  
10 conspiracy.

11 MR. JUSTICE MANSFIELD: And that is what  
12 we are intending to show.

13 THE PRESIDENT: But the mere existence of  
14 the Japanese Constitution cannot be taken to be evi-  
15 dence of conspiracy.

16 My colleagues are inclined to hear you, so  
17 you go ahead.

18 MR. DONIMI: Mr. President, next in order  
19 the prosecution will ask to place in evidence pros-  
20 ecution document No. 7122, this being an official  
21 document of the War Ministry, this document having  
22 been marked exhibit No. 151.

23 (Whereupon, the document above referred  
24 to was marked prosecution's exhibit No. 151 for  
25 identification.)

1           MR. DONIHI: With the Tribunal's permission,  
2 the prosecution should like to read excerpts from  
3 this document.

4           "Handle as Ultra-Secret. General Mobiliza-  
5 zation. War Ministry. The Outline of Program Con-  
6 cerning the Execution of Intelligence and Propaganda  
7 Activities. May 20, 1936.

8           "This outline of program for execution, in  
9 accordance with 'the outline of fundamental program  
10 concerning Intelligence and Propaganda--', stipulates  
11 the matters essential for each program to be planned  
12 by 'Each Office.'

13           "2. 'The organization and the duty of the  
14 Intelligence and Propaganda Organ' will be interimly  
15 designated until they will be enacted under 'the  
16 Organization of the General Mobilization Organ.'"

17           MR. McMANUS: May I request the Tribunal to  
18 instruct the prosecutor to note the page from which  
19 he is reading, please, and citing these excerpts?

20           THE PRESIDENT: I don't know whether you  
21 can do that, Mr. Donihi, but help the defense as much  
22 as you can.

23           MR. DONIHI: The excerpts just read are  
24 from Page 1.

25           No. 3, also on Page 1.

1        "The term 'Each Office' referred to in this  
2        'Outline of Program for Execution' means 'each Minis-  
3        try, Government General of Korea, Government General  
4        of Formosa, Government of Saghalien, and the Govern-  
5        ment of the South Sea Islands.'"

6        Page 2, Chapter I.

7        "General Rules." No. 1 at the bottom of the  
8        page.

9        "This Program is produced chiefly for the  
10      Intelligence and Propaganda Activity essential for  
11      General Mobilization before the outbreak and at the  
12      initial phase of the war (hereafter, it will be ab-  
13      breviated and referred to as Intelligence and Propa-  
14      ganda)."

15      Page 3, Item 3.

16      "The intelligence and propaganda essential  
17      for general mobilization are inseparable from those  
18      for military and diplomatic purposes. Accordingly, in  
19      planning and in executing this program, mutually close  
20      joint utilizations of it must be planned; furthermore  
21      these close contacts and utilizations must be planned  
22      even with various civilian intelligence and propaganda  
23      organs."

24      No. 4, same page.

25      "The fruits of intelligence and propaganda

1 activities will increase or decrease according to the  
2 appropriateness or inappropriateness of the censoring  
3 or control of the organ for public opinion, the pub-  
4 lication, the performance, the communication, etc.  
5 as well as the appropriate or inappropriateness of  
6 the important task of defence against enemy's intel-  
7 ligence and propaganda activities. And in addition,  
8 inasmuch as this objective can be attained through  
9 defence and mutual aid, one must particularly see  
10 to it that coordination and mutual aid between them  
11 will not be found wanting."

12 Item 1 under Chapter II.

13 "Supreme Organ. The Cabinet will decide the  
14 fundamental or the particularly important policy of  
15 propaganda and the particularly important matters  
16 among those to be controlled concerning intelligence  
17 and propaganda. The remaining policies of propaganda  
18 and the control concerning intelligence propaganda  
19 as well as what are demanded by the emergency, will  
20 be decided by the Premier."

21 Page 2-2.

22 THE PRESIDENT: Where is the interpreter?  
23 Put him on, will you?

24 I propose to speak before you, sir.

25 MR. BROOKS: All right.

1           THE PRESIDENT: Are you going to take us  
2 through the whole of this document? I suppose every  
3 country has something like this but there is in the  
4 Japanese propaganda something objectionable, is that  
5 so?

6           MR. DONIHI: Yes, indeed.

7           THE PRESIDENT: Will you point out the ob-  
8 jectionable features?

9           MR. DONIHI: I was directing the Tribunal's  
10 attention to those portions of this document which  
11 are relevant. The portions just read are merely ex-  
12 planatory of the document overall and the particular  
13 items to which I will refer will now be read with the  
14 Tribunal's permission.

15           MR. BROOKS: If your Honor please, this doc-  
16 ument that he is reading from and placing a lot of  
17 emphasis on might be misconstrued very easily by a  
18 civilian but I have seen documents practically word  
19 for word in various military affairs on what we in  
20 the United States would call "D-plus-one Day" defense  
21 measures and there is nothing in this document that  
22 I believe is relevant and material to the case of  
23 General KOISO; and I would like to object to it on  
24 that basis. It is immaterial, irrelevant and is taking  
25 up the Court's time on a demobilization or mobilization

1 plan in time of emergency. If he is placing emphasis  
2 on three or four paragraphs here which are apparent  
3 in every type of document of this nature, I think  
4 every nation sitting here on this Court has a similar  
5 one.

6 THE PRESIDENT: It is too much to expect you  
7 to point out where this document differs from those  
8 of a similar type used by other nations because the  
9 documents used by other nations would not be avail-  
10 able to you. At least, I think they would not be  
11 available. However, we do want you to confine your-  
12 self, at least I do, to the parts that really are ob-  
13 jectionable.

14 MR. DONINI: Will the Tribunal permit me  
15 to direct its attention to specific portions which  
16 we consider important and to explain why we consider  
17 them to be of such importance?

18 On Page 2-4, Section 2, at the bottom of the  
19 page.

20 "Policy of regulating and utilizing speech  
21 and press organizations, publications and entertainment.  
22

23 "Item 1. -- Interior.

24 1. Attempt to organize bodies as illus-  
25 trated in the following and unite them with bodies  
already organized and guide them.

1            "1. The Domei Press. Rear and guide it so it  
2        will be the spokesman of the government in important  
3        matters.

4            "2. Japan Broadcasting Company. Rear and  
5        guide it so it will be the spokesman of the govern-  
6        ment in important news items.

7            "3. Japan Cinema Association. Have the  
8        motion picture companies throughout Japan form this  
9        organization. (Newsreel companies includod.)

10          "4. Japan Publications Association. Have  
11        publishers and owners of publications of newspapers,  
12        magazines, pamphlets, posters, etc., organize this  
13        association.

14          "5. Japan Drama Association. Have dramatists,  
15        performers and people connected with drama form this  
16        association.

17          "6. Japan Musical Association. Have musicians,  
18        composers, phonograph companies and people connected  
19        with music establish this association.

20          "7. Japan Art Association. Have artists,  
21        sculptors, calligraphists and people concerned with  
22        art form this organization."

23          We wish to point out, Mr. President, at this  
24        time, that most of these organizations were actually  
25        not in existence at the time of the drafting of the

1 document, which we are offering now in evidence, but  
2 we also --

3 MR. McMANUS: If your Honor please, I object  
4 to any explanations offered by the prosecutor. It is  
5 tantamount to testifying on his part.

6 THE PRESIDENT: Quite true. The only way  
7 to handle this matter competently is through an expert  
8 in international affairs who ought to be called. He  
9 can tell us something. Perhaps this document might be  
10 such as might be issued by any government in the war.  
11 I have not read the whole of it. There may be some  
12 objectionable features that speak for themselves that  
13 do not require any elaboration, any explanation. But  
14 so far some of these matters that you have referred  
15 to have a neutral quality.

16 MR. DONIHI: The Tribunal has heard witnesses  
17 who have testified as to the organizations of the  
18 specific organs named within this document.

19 THE PRESIDENT: We have heard no expert on  
20 war propaganda, -- what is legitimate and what is not.  
21 He would need to be an able man.

22 MR. DONIHI: The prosecution will offer this  
23 document in evidence without further reading, may it  
24 please the Tribunal. We believe that the document  
25 will speak for itself relating to the preparation of

1 Japanese public opinion for war which is the phase  
2 of the case presented before the Court today.

3 THE PRESIDENT: Well, there is no particular  
4 part you want to point out?

5 MR. DONIHI: In view of the Tribunal's state-  
6 ment, there is not.

7 MR. BROOKS: If the Tribunal please --

8 THE PRESIDENT: Mr. Donihi, will you take  
9 the stand again. Some of my colleagues want to hear  
10 you, want you to point out the parts upon which you  
11 rely.

12 MR. DONIHI: Yes, your Honor. On Page 4-6,  
13 Mr. President, Item 11;

14 "Preparation of movie films, books, pamphlets,  
15 posters, manifestos, mottos, symbols, and other propa-  
16 ganda material for domestic and foreign propaganda be-  
17 fore and after the outbreak of war and at other im-  
18 portant times."

19 THE PRESIDENT: Now the point my colleagues  
20 are making is this, that you set out to show that the  
21 Japanese did set propaganda machinery in preparation  
22 for an aggressive war as distinguished from a non-  
23 aggressive war. Can you do that? It is suggested  
24 that the propaganda of the other countries was for a  
25 non-aggressive war. Now can you show, we would like

1 you to show, you probably can because you said you  
2 could, just where the difference lies in this docu-  
3 ment we are examining.

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1 MR. DONIHI: The prosecution will establish  
2 before it is through with the case, Mr. President,  
3 that this was an aggressive war and that all parts  
4 and portions in furtherance of the conspiracy toward  
5 that aggressive warfare have been connected in the  
6 final analysis.

7 THE PRESIDENT: My colleague from New  
8 Zealand disagrees with my opinions upon this document,  
9 and I also find disagreement on my right, so you had  
10 better proceed to make whatever use of it you had  
11 intended to make. All I wanted you to do was for  
12 you to point out something objectionable in this docu-  
13 ment. It may be full of objectionable things. I  
14 never said otherwise. I came here expecting to find  
15 that it would be. At least I am entitled to ask you  
16 what are the objectionable things upon which you rely  
17 and not have you throw the whole document at us.

18 MR. BROOKS: If the Court please, I think  
19 that there is an assumption that there is something  
20 objectionable in this document, and I believe it is  
21 quite possible that there could be a Japanese document  
22 produced by the Japanese government for emergency  
23 situations that would not be objectionable and would  
24 not be necessarily aimed at aggression. I do not  
25 think it is at least unheard of that documents

1 similar to this general mobilization plan, which it  
2 is called, might not have been in every country of  
3 the world, and that in such a document as presented  
4 here that certain machinery and certain named parties  
5 and associations be formulated and duties set for  
6 them to take up functions when an emergency arose.  
7 I think this has been misconstrued by a man that --

8 THE PRESIDENT: We do not want to hear your  
9 opinions now.

10 MR. BROOKS: I am making an objection, if  
11 your Honor please.

12 THE PRESIDENT: I have expressed no opinion  
13 on this document except I want to know where it might  
14 differ from other documents that might be issued.

15 MR. BROOKS: That is true, if the Court  
16 please, and it also places a burden on us. The  
17 defense does not have the ultra-secret document of  
18 any other nation to compare this with and a man can  
19 only by comparison know certain things --

20 THE PRESIDENT: We have heard enough now.

21 MR. HAMMACK: May it please the Tribunal,  
22 this document was offered as an overt act on the part  
23 of these defendants to prepare the Japanese public  
24 for war. It will be noted that the document was  
25 prepared in 1936. We offer it for what it may be

1 worth. I agree with counsel that it is difficult  
2 to pick out anything particularly that would say that,  
3 but, nevertheless, we are offering it as a great  
4 overt act on the part of these defendants in prepar-  
5 ation for the wars that eventually followed. It is  
6 a lengthy document and I do not believe that the same  
7 should be read, but I should like very respectfully  
8 to call the Court's attention to this fact, that  
9 this is a definite outlined program as to what policy  
10 should be followed to prepare the nation for war,  
11 and, as I say, the importance of it is that it was  
12 prepared in 1936.

13 THE PRESIDENT: Mr. Donihi, or Mr. Hammack,  
14 it doesn't matter, you are relying on the date of  
15 the issue of this document, are you?

16 MR. HAMMACK: That is correct, your Honor,  
17 plus the fact that the document sets forth, as here-  
18 tofore mentioned, a complete program for propaganda,  
19 which we consider important in this case due to the  
20 fact it was issued in 1936 and it will be proved  
21 later that the document was followed out.

22 THE PRESIDENT: You are not relying on any  
23 particular part of the document; you are relying on  
24 the whole document?

25 MR. HAMMACK: Yes, we are relying on the

1 whole document, your Honor.

2 THE PRESIDENT: Is there anything to be  
3 gained by reading it through?

4 MR. HAMMACK: Nothing particular, no, your  
5 Honor.

6 THE PRESIDENT: Then why did you begin to do  
7 so?

8 MR. HAMMACK: Mr. Donihi had in mind, I  
9 think, reading the more pertinent parts, may it please  
10 the Court.

11 MR. FURNESS: While not objecting to the  
12 issuance of this document, the defense cannot admit, of  
13 course, that this was an overt act or that it was an  
14 overt act or conspiracy on the part of all these  
15 defendants. We understand, of course, from the  
16 Court that it must be connected up with the individual  
17 defendants before it is evidence against them.

18 THE PRESIDENT: You need not repeat that.  
19 That has been said a dozen times.

20 MR. FURNESS: I object particularly to this  
21 statement that counsel made that this was an overt  
22 act, and I do not think it is an overt act or con-  
23 spiracy at all.

24 MR. HAMMACK: May the next witness be  
25 called, may it please the Court? Mr. KOIZUMI,

KOIZUMI

DIRECT

1                   Mr. Marshal.

2                   CAPTAIN KLEIMAN: May it please your  
3                   Honor --4                   THE PRESIDENT: I decline to hear you further  
5                   at this stage.6                   CAPTAIN KLEIMAN: It is just a technical  
7                   difficulty, your Honor, has nothing to do with what  
8                   has been discussed. I would like just --9                   THE PRESIDENT: We will hear this witness  
10                  first and you can raise your technical difficulty  
11                  after.

12                  CAPTAIN KLEIMAN: Thank you.

13                  MARSHAL OF THE COURT: Mr. President, the  
14                  witness KOIZUMI is now in court and will be sworn.16                  G O R O   K O I Z U M I , called as a witness on  
17                  behalf of the prosecution, being first duly  
18                  sworn, testified as follows:19                  MR. HAMMACK: For the benefit of the defense,  
20                  May it please the Court, I should like to call to  
21                  their attention to International Prosecution Section  
22                  document No. 10,509-B.23                  DIRECT EXAMINATION  
24                  BY MR. HAMMACK:

25                  Q    What is your name?

KOIZUMI

DIRECT

1           A    KOIZUMI, Goro.

2           Q    I show you a document, Mr. KOIZUMI, and ask  
3         you to look at this document and state whether or  
4         not you recognize it.

5           A    This is my affidavit.

6           Q    That affidavit was translated from the  
7         English into Japanese for you, was it not, Mr. KOIZUMI?

8           A    Yes, I saw it.

9           Q    And you understood the contents of the  
10       affidavit as it was set forth in English, did you  
11       not, Mr. KOIZUMI?

12          A    Yes, I understood it.

13          Q    And in addition thereto you checked it with  
14       the Japanese which you, yourself, wrote out. Is that  
15       not correct?

16          A    Yes, I did.

17           MR. HAMMACK: At this time, may it please  
18       the Court, we offer the affidavit in evidence and ask  
19       that it be marked prosecution's next in order.

20           (Whereupon, the document above  
21       referred to was marked prosecution's exhibit  
22       No. 152 for identification.)

23           MR. HAMMACK: At this time I should like the  
24       privilege of reading the affidavit, if the Court  
25       please.

KOZUMI

DIRECT

1                   THE PRESIDENT: Wait until after the recess,  
2 will you? We will recess for fifteen minutes.

3                   (Whereupon, at 1445, a recess was  
4 taken until 1500, after which the proceedings  
5 were resumed as follows:)

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KOIZUMI

DIRECT

MARSHAL OF THE COURT: The Tribunal is now  
resumed.

MR. HAMMACK: Shall I proceed, may it please  
the Court?

THE PRESIDENT: You may.

MR. HAMMACK: "International Military Tri-  
bunal for the Far East. The United States of America,  
et al, against ARAKI, Sadao, et al. Affidavit.

"I, Goro KOIZUMI, do swear on my conscience  
that the following statements are true:

"From 1935 until 1940 I was Chief of Police  
in various prefectures, and as such am familiar with  
the operations of the police departments in Japan.

"The police in Japan were under the orders  
and supervision of the Police Bureau of the Home  
Ministry, the police in connection with their du-  
ties being concerned in fulfilling the same pri-  
marily with violations of the following laws:

1. Public Peace Law. This law was promul-  
gated in the year of 1900.

2. Preservation of Peace Law, enacted in 1925  
and amended in 1941.

3. Military Secrets Protection Law, enacted  
in 1937 for the protection of secrets in regards  
to mobilization and tactics and operations of the

KOIZUMI

DIRECT

1                   armed forces.

2                  4. Law for the protection of secrets in regards  
3                  to military resources, enacted in 1939 for the pro-  
4                  tection of all secrets in regards to both material  
5                  and human resources of the armed forces."

6                  MR. LOGAN: If the Tribunal please, counsel  
7                  is reading from a document here which is entirely  
8                  different from the one supplied the defense.

9                  MR. HAMMACK: May I say, may it please the  
10                 Court, that I specifically called to the attention  
11                 of counsel for the defense that the document I am  
12                 reading from is document No. 11,509-B.

13                 THE PRESIDENT: Proceed, Mr. Hammack.

14                 MR. HAMMACK: (Reading:)

15                 "In connection with law enforcement, the  
16                 police enforced the censorship laws in all their  
17                 forms relating to censorship over newspapers,  
18                 publications, writings, books, moving pictures,  
19                 plays and other forms of entertainment, public  
20                 speeches, public gatherings, and were particularly  
21                 active in the guidance of expressions of thought  
22                 that were contrary to government policy, and when  
23                 such persons failed to follow such guidance and  
24                 infringed upon any law such persons were then put  
25                 in prison.

KOIZUMI

DIRECT

1                 "The various police departments required  
2                 that public speeches which had a political objective  
3                 and all group activities and social movements submit  
4                 the script of their programs in advance of actual  
5                 public display for approval by the police. In re-  
6                 gard to moving pictures and plays, it was required  
7                 that permission be obtained from the Home Ministry  
8                 beforehand, before such plays for moving pictures  
9                 could be exhibited. The police had the authority  
10                 to prohibit the showing of moving pictures and plays  
11                 if they were objectionable or contrary to the policy  
12                 of the Japanese Government as it then existed, or  
13                 if the law had not been complied with by first sub-  
14                 mitting the same to the Police Bureau of the Home  
15                 Ministry for its approval; and to prohibit and stop  
16                 public speeches which had a political objective or  
17                 prohibit or stop all groups or social movements  
18                 which were not conducted according to the program  
19                 submitted to the Police Department.  
20

21                 "In 1928 there was organized on a national  
22                 basis from the Police Department a section called  
23                 the High Police, the duties of which were primarily  
24                 to watch over the activities of extreme leftists  
25                 and extreme rightists, and in addition whose duties  
                       were to watch over the activities of anyone who

KOIZUMI

DIRECT

1 was opposed to the policy of the Japanese Government  
2 as it existed from 1931 to December 7, 1941. For  
3 illustration, following the Japanese-Chinese Inci-  
4 dent of 1937, no one in Japan was permitted to ex-  
5 press opposition to the war with China. If they  
6 did so, they would be arrested under the Preser-  
7 vation of Peace Law and imprisoned. By this I do  
8 not mean that if a Mother whose son was a soldier  
9 in the Japanese Army in China should say, 'I wish  
10 the war was over and my boy was home.'

11 "In addition to these duties, the High  
12 Police also exercised authority and supervision over  
13 censorship of writings, speeches, press, plays  
14 and other forms of public entertainment, public  
15 meetings and gatherings.

16 "That from ancient times in Japan, there  
17 was the family group movement throughout Japan.  
18 In ancient times these groups were banded together  
19 for the purpose of preventing and reporting crime  
20 and for mutual aid. That in the latter part of  
21 1940, the family or neighborhood group movement  
22 was revived for the purpose of educating the Jap-  
23 anese people on governmental policy and to make the  
24 people war conscious as well as for mutual aid,  
25 and to make them cooperate with the government,

KOIZUMI

DIRECT

1 these families or neighborhood groups being under  
2 the local administrations.

3 "In an intangible manner following the  
4 Japanese-Chinese conflict, the armed forces began  
5 to influence the Police Department, this influence  
6 increasing through to 1941, and thereafter during  
7 the Pacific War becoming even more pronounced.  
8 That all government agencies were used to inspire  
9 a military spirit in the Japanese people, this  
10 really becoming effective when the Board of Infor-  
11 mation of the Cabinet was formed. Through this  
12 Board strict censorship and supervision of dis-  
13 semination of all news, publications, writings,  
14 moving pictures and all forms of public enter-  
15 tainment was exercised. Such censorship was di-  
16 rected by the Board of Information and the Home  
17 Ministry to the Chief of the Police Bureau, who  
18 in turn directed the activities of the police in  
19 connection therewith.

20 "In July of 1940 I was appointed to the  
21 Board of Directors of the National Spirit and  
22 Activities Headquarters. The purpose of this  
23 Board was to make the nation war conscious, the  
24 expenses for the operation of the Board being  
25 paid through the Cabinet Board of Information,

KOIZUMI

DIRECT

1 which obtained money from the Finance Ministry.  
2 Approximately three months later, this Board was  
3 abolished with the formation of the Imperial Rule  
4 Assistance Association. Upon the formation of the  
5 Imperial Rule Assistance Association, I was appoint-  
6 ed the head of a department of the Imperial Rule  
7 Assistance Association, the expenses of which were  
8 paid by the government, and the purposes and duties  
9 of which department through cooperative conferences  
10 were to cause all of the people in Japan to become  
11 war conscious and cooperate with the government in  
12 connection with government policy and also to ob-  
13 tain public opinion of the different classes of the  
14 people. This purpose was effected through these  
15 conferences by instructing the people and educating  
16 them in the policy of the government and by listen-  
17 ing to the people for the purpose of influencing  
18 the people to think all alike in favor of govern-  
19 mental policies."

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KOIZUMI

CROSS

1                   MR. HAMMACK: I have no further questions,  
2 gentlemen.

3                   THE PRESIDENT: Dr. KIYOSÉ.

4                   CROSS-EXAMINATION

5                   BY DR. KIYOSÉ:

6                   Q     Has the witness submitted affidavits on  
7 two occasions?

8                   THE PRESIDENT: The document is admitted.  
9 I do not think I said that.

10                  (Whereupon, prosecution's exhibit  
11 No. 152 was received in evidence.)

12                  A     After I saw the first translation I saw  
13 some mistakes, so I had a second translation  
14 made.

15                  MR. HAMMACK: In an effort, may it please  
16 the Court, to speed this up, I am willing to stip-  
17 ulate that this is the second affidavit of this  
18 witness who wished to make some corrections of  
19 the first. So we, therefore, prepared the second  
20 and we are not using the first.

21                  Q     Then I shall present questions to you in  
22 accordance with the text of the affidavit sub-  
23 mitted on June 22.

24                  MR. HAMMACK: To which I am going to ob-  
25 ject, may it please the Court, to any questions

KOIZUMI

CROSS

1 as to the affidavit which went through before for  
2 the reason that the witness has not referred to  
3 it, nor is it in evidence. It has never been pre-  
4 sented into evidence.

5 We respectfully make the request of the  
6 Court at this time that counsel be instructed to  
7 limit his cross-examination to the affidavit which  
8 is in evidence.

9 THE PRESIDENT: If the witness made two  
10 affidavits bearing on the same subject matter,  
11 one is presented and the other is not, I hold that  
12 this cross-examination can extend to the first  
13 affidavit.

14 Q First of all, I should like to inquire in  
15 connection with your statement in the first part  
16 of the affidavit, in which you say that the police  
17 exercised their functions primarily with viola-  
18 tions of the following four laws.

19 A Regarding this word "primarily" which was  
20 used, I entertained some doubt when I first heard  
21 this. In my interpretation it merely had the sig-  
22 nificance of the word "first" -- "firstly" and no  
23 special emphasis was laid thereon.

24 THE MONITOR: Correction: Besides these  
25 primary functions I took it to mean that police had

KOIZUMI

CROSS

1 other functions.

2 Q Then is it proper for me to take it this  
3 way, that the police system in Japan, like the police  
4 in other countries, arrested offenders, looked after  
5 sanitation questions, and concerned itself with  
6 peace and order and tranquility?

7 Do you also mean to say that besides these  
8 activities the police in Japan was engaged in the  
9 functions listed in your affidavit under the four  
10 different laws?

11 A That is so. Among many things, the police  
12 in Japan looked after, first, sanitation, crime,  
13 traffic, et cetera. And in addition to this, we were  
14 authorized to deal with infringements of the four  
15 laws just mentioned.

16 Q Now I understand. Now, I should like to  
17 put my second question: In the few paragraphs  
18 ahead, you state in your affidavit that in connec-  
19 tion with law enforcement the police enforced the  
20 censorship laws in all their forms, et cetera.  
21 You have not indicated the date there. Was this  
22 done before the war, or do you mean to say it was  
23 done after the war?

24 A From my recollection, I can only tell you  
25 what transpired during the period between the tenth

KOIZUMI

CROSS

1 year of Showa and fifteenth year of Showa; that is,  
2 1935 up till 1940.

3 Q Then it is something which occurred after  
4 the China Incident as well as the Manchurian Inci-  
5 dent?

6 A That is so.

7 Q Then, may I take you to mean that it was  
8 not for the purpose of preparing for war?

9 MR. HAMMACK: May it please the Court, I  
10 object to questions calling for the opinion and con-  
11 clusion of the witness on a subject on which he is  
12 not qualified to have any particular knowledge.

13 THE PRESIDENT: Well, you do not hold him  
14 out as an expert?

15 MR. HAMMACK: No, your Honor, certainly  
16 not upon the preparation for war.

17 THE PRESIDENT: Well, he cannot be cross-  
18 examined as one.

19 Q Now, in a further paragraph of your affida-  
20 vit you state: 'The various police departments re-  
21 quired that public speeches which had a political  
22 objective would have to submit the script of their  
23 programs or speeches in advance. Do you mean to  
24 say that we politicians were also required to do  
25 that?

KOIZUMI

CROSS

1           A Concerning political meetings, they were  
2         to be guided in accordance with the Peace Preserva-  
3         tion Law. However, whenever political meetings  
4         were to be held, we police had advance notice of  
5         such meetings.

6           THE MONITOR: Correction: In accordance  
7         with the Peace Preservation Law, a report of sched-  
8         uled meetings was to be made.

9           Q My question was this: Were politicians  
10         before they made addresses before political meetings  
11         required to report their addresses, the contents  
12         of their addresses, to the police?

13           A Yes, it was so. Insofar as political meet-  
14         ings were concerned.

15           THE MONITOR: Correction: Political  
16         speeches.

17           Q What would you mean, then, about speeches  
18         which are not in the category of political speeches?

19           A The content of political speeches.

20           Q Further on in your affidavit you state  
21         that there was organized on a national basis from  
22         the Police Department a section called High Police,  
23         the duties of which were primarily to watch over  
24         the activities of extreme leftists and extreme  
25         rightists.

KOIZUMI

CROSS

1           We can understand extreme leftists, but  
2 what do you mean by extreme rightists?

3           A By extreme rightists I mean terrorists who  
4 were rampant at that time.

5           THE MONITOR: Correction: And special po-  
6 lice or Tokko was charged with surveillance over  
7 these elements.

8           Q When you speak of extreme rightists, do you  
9 also mean to include such incidents as the May 15  
10 Incident, and the Blood Brotherhood or Ketsu Mei-Dan  
11 Incident?

12          A What you say, I believe, belonged to the  
13 extreme rightists.

14          Q Lastly, I should like to ask: In your affi-  
15 davit you say that those who opposed the China Inci-  
16 dent were arrested in accordance with the Peace  
17 Preservation Law. Is that so?

18          A Concerning this problem, I do not assert  
19 that such a thing did actually happen. However,  
20 when political meetings -- open political meetings  
21 were held we merely guided the meetings so that  
22 they would not go along extreme lines. That is to  
23 say, I was merely trying to point out that those  
24 who disregarded such guidance of the police and  
25 carried on -- opposed the policy of the government

KOIZUMI

CROSS

1           in their political meetings, these people we sus-  
2           pected -- we would suspect -- and after taking them  
3           to police headquarters we would interrogate them  
4           on the various points which might lead to our dis-  
5           covery of whether or not they belonged to secret  
6           societies or special organizations.

7           THE MONITOR: Correction: Whenever there  
8           were persons who would disregard guidance by the  
9           police, police on our side would suspect the persons  
10          might be those who are violating the Peace Preserva-  
11          tion Law in that they may be plotting to overthrow  
12          the government, or they may belong to a group which  
13          advocates nullification of private property; and  
14          police further may suspect these persons may be guid-  
15          ing such movement, and under this suspicion the  
16          police would detain them in the police station and  
17          question them.

18          Q     Of course, the witness would acknowledge the  
19          fact that the Peace Preservation Law, and not the  
20          Police Law, was enacted for the purpose of suppress-  
21          ing Communism. What is the relationship between  
22          opposition to the China Incident and Communism?

23          A     At that time there was no direct relation  
24          between these two. However, if there was such a  
25          fact, and if there was anyone who would speak before

KOIZUMI

CROSS

1       the public in such a vein as to oppose the execution  
2       of the government policy, they would be looked upon  
3       as being Communists by us, and we would, therefore,  
4       detain them and interrogate them.

5       Q     You are now speaking of the China Incident.  
6       But after the outbreak of the war of Greater East  
7       Asia, was that policy changed?

8       A     As for what happened after the outbreak of  
9       the Greater East Asia War I cannot tell you inasmuch  
10      as I left the police service.

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1       Q     However, in your affidavit you state that  
2              in an intangible manner, following the Japanese-  
3              Chinese conflict, the armed forces began to in-  
4              fluence the police department, this influence in-  
5              creasing through to 1941 and, thereafter, during the  
6              Pacific War, becoming even more pronounced.

7       A     I made such a statement on the grounds  
8              that even after I left the police service I knew that  
9              military measures called for the enactment of such  
10             laws; and, even when I was still in the military ser-  
11             vice, I remember that such laws were passed.

12           THE MONITOR: Correction: On the basis of  
13              my knowledge after I left the police service I made  
14              the statement that such influence from the armed  
15              forces was strengthened even after the outbreak of  
16              the Pacific War. Even while I was in the police  
17              service there were various laws and regulations; and,  
18              after I left the service, there were many military  
19              laws and regulations put into effect.

20           Q     Then I could say this, may I not, that  
21              there is a clear distinction between the facts you  
22              know directly by your own experience in the police  
23              service and about this influence of the armed  
24              forces over the police department during the Pacific  
25              War which you obtained indirectly from other sources

HOIZUMI

CROSS

1 after you had left the police service?

2 A As for what happened after the outbreak of  
3 the Greater East Asia War, I cannot say that I came  
4 to know of these through my service on the police  
5 force.

6 Q When did you resign from the service in  
7 1940 -- what month?

8 A July, 1940.

9 Q Then, in your affidavit you speak of the  
10 fact that, in addition, duties were to watch over  
11 the activities of anyone who was opposed to the  
12 policy of the Japanese Government as it existed  
13 from 1931 to December 7, 1941. That creates another  
14 doubt. Then, I take it to mean that this information  
15 you also received after you had resigned from the  
16 service.

17 A That is so.

18 Q In other words, that is what we say is  
19 hearsay evidence, is that so?

20 A I believe I can say such a thing, on the  
21 basis of the experience I gained while I was serving  
22 on the police force, with regard to the extreme  
23 rightists and leftists.

24 Q Then, what you had heard after you had  
25 resigned from the service is not what you have

HOIZUMI

CROSS

1       secured directly, is that so?

2       A   Yes.

3       Q   Then it means that it is your presumption  
4       or imagination after you had left the service, isn't  
5       that so?

6       A   As to what happened after I left the police  
7       service I cannot make a statement in any way. How-  
8       ever, I believe I can say --

9                   THE MONITOR: However, I can say that these  
10          views represent my general knowledge.

11                   CROSS-EXAMINATION (Continued)

12          BY CAPTAIN KLEIMAN:

13       Q   Mr. HOIZUMI, have you traveled outside of  
14       Japan?

15       A   I have.

16       Q   And do you know of any country where plays  
17       or motion pictures are not censored by local govern-  
18       ment?

19       A   The purpose of my travel not being concerned  
20       whatever with police affairs, I have not made any  
21       study of the subject, and, therefore, I cannot say.

22       Q   How did you come to give this information,  
23       supplied in the second affidavit and in the first  
24       affidavit, to the prosecution?

25       A   I do not know what you are driving at.

HOIZUMI

CROSS

1 Q Are you now, or have you ever been, a war  
2 suspect?

3 A I have not been so charged, and I am not a  
4 suspect.

5 Q Did you seek out the International Prosecu-  
6 tion Section, or did they seek you out?

7 MR. HAMMACK: I will stipulate, may it  
8 please the Court, that I sought him out.

9 Q Did you volunteer any information to Mr.  
10 Hammack?

11 A I spoke to Mr. Hammack in reply to questions  
12 put to me by him.

13 Q Do you speak English?

14 A Not sufficiently.

15 Q Prior to the time that you signed the  
16 affidavit which has been put in evidence today, had  
17 you under oath signed another affidavit?

18 A Yes, once.

19 Q And had you been sworn to that affidavit?

20 A Yes, I did.

21 Q Had that affidavit been translated into  
22 Japanese for you before you signed it?

23 A I saw the Japanese version later.

24 Q Had you signed that first affidavit  
25 before you saw the Japanese version later?

HOIZUMI

CROSS

1           A I did not.

2           Q And, nevertheless, you, under oath, signed  
3           the first affidavit which you now state contained  
4           various mistakes without understanding what was  
5           contained in that first affidavit; is that right,  
6           Mr. Witness?

7           A Yes, that is right.

8           THE PRESIDENT: Would you care to tender  
9           it just to show how extensive and how important the  
10          mistakes are?

11          CAPTAIN KLEIMAN: I may later, your Honor.

12          THE PRESIDENT: It is not necessary to  
13          cross-examine in such detail unless you are going to  
14          tender that affidavit.

15          CAPTAIN KLEIMAN: I will have to consult  
16          with the other counsel before I do that, if it  
17          please the Tribunal.

18          Q You state on page 3 of the affidavit in  
19          evidence that you were head of a certain department  
20          of the Imperial Rule Assistance Association. What  
21          department was that?

22          A Director of the Corporative Council Depart-  
23          ment.

24          THE MONITOR: Department Chief in the  
25          Corporative Council.

HOTZUMI

**CROSS**

Q What was the function of that council?

A The purpose of this council was to have representatives selected to this council from all classes of the people throughout the country in order that the government policy made through these representatives be disseminated and infiltrated among the people in general, and also, through these representatives, to secure from the people in general the desire and the hopes which the people in general entertained of the government.

Q Was it the purpose of that council to make the people war conscious?

A The policy of the government at that time being to make that policy known and understood by the people; and since the China Incident was already in progress at that time, it may be interpreted that the policy of the government was to create war consciousness.

Q Did you refuse at any time to accept such a post because one of the functions was to make the people war conscious?

THE MONITOR: Will the court reporter please repeat that question?

(Whereupon, the last question was  
read by the official court reporter.)

HOIZUMI

CROSS

1       A When I took over the position, it was for  
2 the purpose of making the policy of the government  
3 better known and understood by the people. I should  
4 say that it was as an effect or the result of the  
5 execution of that policy that war consciousness --  
6 promotion of war consciousness resulted.

7       Q And did you feel that your action as head  
8 of or as member of the of the council which you just  
9 mentioned was for the good of your country?

10      MR. HAMMACK: I object, may it please  
11 your Honor, on the ground that the witness has not  
12 been qualified as an expert on war consciousness.

13      THE PRESIDENT: He may ask the question  
14 for what it is worth.

15      A At that time I thought it was for the good  
16 of the country.

17      Q On page 2 in your affidavit you mention  
18 that all government agencies were used to inspire  
19 a military spirit in the Japanese people. Is that  
20 a true statement?

21      THE PRESIDENT: Do try to avoid that kind  
22 of question: You said this in your affidavit; is  
23 it true?

24      A In the light of the situation at that time,  
25 yes.

HOIZUMI

CROSS

1           Q    Is it a true statement as it is presently  
2           written in the affidavit which has been introduced  
3           in evidence now?

4           A    Generally, I think my thoughts are very well  
5           presented.

6           Q    Was the Privy Council -- question withdrawn.  
7           Is the Privy Council a government agency of Japan?

8           A    Personally, I do not have a very clear  
9           knowledge with respect to the Privy Council.

10          Q    Then, can you truthfully say that all  
11         governmental agencies were used to inspire and create  
12         a military spirit in the Japanese people?

13          A    I should say that, from the common sense  
14         standpoint of view, my expression should be accept-  
15         able although, legally speaking, it may be not quite  
16         so proper.

17          CAPTAIN KLEIMAN: No further questions, may  
18         it please the Tribunal.

19          MR. FURNESS: I would like to call on the  
20         prosecution to produce the first affidavit, signed  
21         by this witness, with the intention of tendering it  
22         in evidence.

23          MR. HAMMACK: May it please the Court, if  
24         counsel would supply me with copies of the original  
25         I would be very glad to do so. I haven't any with

HOIZUMI

CROSS

1 me. But, if they will supply them to me, both the  
2 copies in Japanese and in English, I would be glad  
3 to put it in evidence.

4 MR. FURNESS: We have copies. Of course,  
5 we have not got the signed document.

6 MR. HAMMACK: Which one do you want me to  
7 offer?

8 MR. FURNESS: I want to tender the original  
9 signed copy. I haven't got that, of course. That  
10 is in the prosecution's file.

11 MR. HAMMACK: If the Court please, I have  
12 an exact copy of the original which I should have  
13 upstairs, if I haven't torn it up. And, if counsel  
14 insists on giving the original, I will get it up-  
15 stairs. But, for all practical purposes, may it  
16 please the Court, this copy that they were supplied  
17 with would suffice.

18 THE PRESIDENT: It should be the original  
19 if it is available.

20 MR. HAMMACK: At this time I would say  
21 this, your Honor: I am quite certain I destroyed  
22 the original Saturday. I want that to be under-  
23 stood by counsel. If I have it in my possession,  
24 I will be glad to bring it down.

25 THE PRESIDENT: You should not have

HOIZUMI

CROSS

1                   destroyed it.

2                   We will accept the copy.

3                   MR. FURNESS: I suppose I can wait until  
4                   tomorrow morning, and he can see if he destroyed it  
5                   or not. He says he is not sure whether he destroyed  
6                   it, your Honor. I would suggest that we wait until  
7                   tomorrow morning. It is almost time to adjourn.

8                   THE PRESIDENT: This is a convenient break.  
9                   We will adjourn until thirty minutes past nine  
10                  tomorrow morning.

11                  (Whereupon, at 1600, a recess  
12                  was taken until Tuesday, 25 June 1946, at  
13                  0930.)

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